



BellSouth Telecommunications  
Interconnection Services  
675 W. Peachtree Street, NE  
Room 34S91  
Atlanta, GA 30075

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MAY 02 2002

TN REGULATORY AUTHORITY

Jerry D. Hendrix  
Executive Director

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EXECUTIVE SECRETARY

April 26, 2002

VIA ELECTRONIC AND OVERNIGHT MAIL

97-01262

Carl Jackson  
Senior Director  
Intermedia Communications, Inc.  
One Intermedia Way  
Tampa, FL 33647-1752

Dear Carl:

Intermedia has requested BellSouth to convert numerous special access circuits to Unbundled Network Elements (UNEs). Pursuant to those request, BellSouth has converted many of those circuits in accordance with BellSouth procedures. Some of the circuits were not converted due to various reasons, (e.g., previously disconnected, duplicates, etc.).

Consistent with the FCC Supplemental Order Clarification, Docket No. 96-98, BellSouth has selected an independent third party, American Consultants Alliance (ACA), to conduct an audit. The purpose of this audit is to verify Intermedia's local usage certification and compliance with the significant local usage requirements of the FCC Supplemental Order.

In the Supplemental Order Clarification, Docket No. 96-98 adopted May 19, 2000 and released June 2, 2000 ("Supplemental Order"), the FCC stated:

"We clarify that incumbent local exchange carriers (LECs) must allow requesting carriers to self-certify that they are providing a significant amount of local exchange service over combinations of unbundled network elements, and we allow incumbent LECs to subsequently conduct limited audits by an independent third party to verify the carrier's compliance with the significant local usage requirements."

Accompanying this letter, please find a Confidentiality and Non-Disclosure Agreement on proprietary information and Attachment A, which provides a list of the information ACA needs from Intermedia.

Intermedia is required to maintain appropriate records to support local usage and self-certification. ACA will audit Intermedia's supporting records to determine compliance of each circuit converted with the significant local usage requirements of the Supplemental Order.

In order to minimize disruption of Intermedia's daily operations and conduct an efficient audit, ACA has assigned senior auditors who have expertise in auditing, special access circuit records and the associated facilities, minutes of use traffic studies, CDR records recorded at the switch for use in billing, and Unbundled Network Elements.

BellSouth will pay for American Consultants Alliance to perform the audit. In accordance with the Supplemental Order, Intermedia is required to reimburse BellSouth for the audit if the audit uncovers non-compliance with the local usage options on 20% or more of the circuits audited. This is consistent with established industry practice for jurisdictional report audits. BellSouth hopes that in the event circuits are found to be non-compliant, the parties can reach agreement as to the appropriate remedy; however, in the event that the parties cannot, in accordance with the interconnection agreements, BellSouth will seek dispute resolution from the appropriate Commission(s). BellSouth will seek reimbursement for the cost of the audit and will seek to convert the circuits back to special access for the appropriate non-recurring charges for the special access services. In addition, BellSouth will seek reimbursement for the difference between the UNE charges paid for those circuits since they were converted and the special access charges that should have applied.

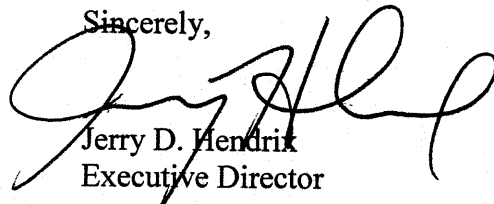
Per the Supplemental Order, BellSouth is providing at least 30 days written notice that we desire the audit to commence on May 29 at Intermedia's office in Tampa or another Intermedia location as agreed to by both parties. Our experience in other audits has indicated that it typically takes two weeks to complete the review. Thus, we request that Intermedia plan for ACA to be on-site for two weeks. Our audit team will consist of 3 auditors and an ACA partner in charge.

Intermedia will need to supply conference room arrangements at your facility. Our auditors will also need the capability to read your supporting data, however you choose to provide it (file on PC, listing on a printout, etc.). It is desirable to have a pre-audit conference next week with your lead representative. Please have your representative call Shelley Walls at (404) 927-7511 to schedule a suitable time for the pre-audit planning call.

BellSouth has forwarded a copy of this notice to the FCC, as required in the Supplemental Order. This allows the FCC to monitor implementation of the interim requirements for the provision of unbundled loop-transport combinations.

If you have any questions regarding the audit, please contact Shelley Walls at (404) 927-7511. Thank you for your cooperation.

Sincerely,



Jerry D. Hendrix  
Executive Director

Enclosures

cc: Michelle Carey, FCC (via electronic mail)  
Jodie Donovan-May, FCC (via electronic mail)  
Walter D'Haeseleer, Florida Public Service Commission (via U.S. mail)  
Leon Bowles, Georgia Public Service Commission (via hand delivery)  
North Carolina Utilities Commission (via electronic mail)  
K. David Waddell, Tennessee Regulatory Authority (via U.S. mail)  
Tom Norman, BellSouth (via electronic mail)  
Larry Fowler, ACA (via electronic mail)  
General Counsel, Intermedia (via U.S. mail)

**Audit to Determine the Compliance Of Circuits Converted by Intermedia From BellSouth's Special Access Tariff to Unbundled Network Elements With The FCC Supplemental Order Clarification, Docket No. 96-98**

**Information to be Available On-site May 29**

Prior to the audit, ACA or BellSouth will provide Intermedia the circuit records as recorded by BellSouth for the circuits requested by Intermedia that have been converted from BellSouth's special access services to unbundled network elements. These records will include the option under which Intermedia self-certified that each circuit was providing a significant amount of local exchange service to a particular customer, in accordance with the FCC's Supplemental Order Clarification.

**Please provide:**

Intermedia's supporting records to determine compliance of each circuit converted with the significant local usage requirements of the Supplemental Order Clarification.

First Option: Intermedia is the end user's only local service provider.

- ☐ Please provide a Letter of Agency or other similar document signed by the end user, or
- ☐ Please provide other written documentation for support that Intermedia is the end user's only local service provider.

Second Option: Intermedia provides local exchange and exchange access service to the end user customer's premises but is not the exclusive provider of an end user's local exchange service.

- ☐ Please provide the total traffic and the local traffic separately identified and measured as a percent of total end user customer local dial tone lines.
- ☐ For DS1 circuits and above please provide total traffic and the local voice traffic separately identified individually on each of the activated channels on the loop portion of the loop-transport combination.
- ☐ Please provide the total traffic and the local voice traffic separately identified on the entire loop facility.
- ☐ When a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), please provide the above total traffic and the local voice traffic separately identified for each individual DS1 circuit.

Third Option: Intermedia provides local exchange and exchange access service to the end user customer's premises but is not the exclusive provider of an end user's local exchange service.

- ☐ Please provide the number of activated channels on a circuit that provide originating and terminating local dial tone service.

## ATTACHMENT A

Intermedia  
April 26, 2002

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- ☐ Please provide the total traffic and the local voice traffic separately identified on each of these local dial tone channels.
- ☐ Please provide the total traffic and the local voice traffic separately identified for the entire loop facility.
- ☐ When a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), please provide the above total traffic and the local voice traffic separately identified for each individual DS1 circuit.

Depending on which one of the three circumstances Intermedia chose for self certification, other supporting information may be required.

THIS NONDISCLOSURE AGREEMENT (herein the "Agreement") is dated and effective as of \_\_\_\_\_ ("Effective Date"), between BellSouth Telecommunications, Inc., a Georgia corporation, with its corporate office located at 675 W. Peachtree, Atlanta, Georgia ("BellSouth"), and Intermedia Communications, Inc., a Delaware corporation, located at Tampa, Florida ("Discloser," "you" or "your").

#### RECITALS

A. BellSouth acknowledges that it may be necessary for you to provide BellSouth and its Affiliates with certain information, considered by you to be confidential, valuable and proprietary, which BellSouth and its Affiliates are receiving for the purpose of verifying your compliance with the significant local usage requirements of the FCC Supplemental Order Clarification, Docket No. 96-98 (the "Project"). "Affiliates" means any company owned in whole or in part, now or in the future, by BellSouth Corporation or by one or more of its direct or indirect subsidiaries controlled by BellSouth Corporation.

B. Such confidential and proprietary information may include, but is not limited to, your business, financial and technical information, proposed products and services and like information, and the results of or information contained in any audit conducted in connection with the Project (collectively your "Information").

IN CONSIDERATION of the mutual promises and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. BellSouth will protect Information you provide to BellSouth, and Information that any auditor engaged in connection with the Project provides to BellSouth, from use, distribution or disclosure except in connection with the Project. BellSouth may disclose Information only to the Affiliates, employees, consultants, contractors and agents of BellSouth with a need to know such Information in connection with the Project. BellSouth will make copies of Information only as necessary for its use in connection with the Project. Notwithstanding the foregoing, BellSouth may disclose such Information to the extent reasonably necessary to enforce its rights under any interconnection agreements between you and BellSouth or under rules and orders of the Federal Communications Commission applicable to the Project. BellSouth will cooperate with you to protect the confidentiality of such Information in the event of disclosure pursuant to this paragraph.
2. All Information must be provided by you to BellSouth in written or other tangible or electronic form, marked by you with a confidential and proprietary notice. Information orally provided by you to BellSouth must be designated as confidential and proprietary prior to such oral disclosure and must be reduced by you to writing, marked with a confidential and proprietary notice, and provided to BellSouth within ten (10) calendar days after such oral disclosure.
3. Your Information does not include:
  - (a) any information you publicly disclose;
  - (b) any information you in writing authorize BellSouth or its Affiliates to disclose without restriction;
  - (c) any information already lawfully known to BellSouth or its Affiliates at the time you disclose it, without an obligation to keep it confidential;
  - (d) any information BellSouth or its Affiliates lawfully obtain from any source other than you, provided that such source lawfully disclosed such information;
  - (e) any information BellSouth or its Affiliates independently develop; or
  - (f) any information BellSouth or its Affiliates is required to disclose to any governmental agency or court by written order, subpoena, regulation or process of law, but only to the extent of such required disclosure.
4. You will not identify BellSouth or its Affiliates in any advertising, sales material, press release, public disclosure or publicity without prior written authorization of BellSouth. No license under any trademark, patent or copyright is either granted or implied by disclosure of Information to BellSouth.
5. The term of this Agreement and BellSouth's obligations hereunder will extend for a period of one (1) year after the Effective Date.
6. No forbearance, failure or delay by either party in exercising any right, power or privilege is waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof, or the exercise of any other right, power or privilege.
7. If and to the extent any provision of this Agreement is held invalid or unenforceable at law, such provision will be deemed stricken from the Agreement and the remainder of the Agreement will continue in effect and be valid and enforceable to the fullest extent permitted by law.
8. This Agreement is binding upon and inures to the benefit of the parties and their heirs, executors, legal and personal representatives, successors and assigns, as the case may be.

PRIVATE/PROPRIETARY/LOCK

CONTAINS PRIVATE AND/OR PROPRIETARY INFORMATION. MAY NOT BE USED OR DISCLOSED OUTSIDE THE BELLSOUTH COMPANIES EXCEPT PURSUANT TO A WRITTEN AGREEMENT. MUST BE STORED IN LOCKED FILES WHEN NOT IN USE.

You may not assign this Agreement except by prior written consent of BellSouth, and any attempted assignment without such authorization is void.

9. This Agreement shall be deemed executed in the State of Georgia, U.S.A., and is to be governed and construed by Georgia law, without regard to its choice of law provisions. The parties agree that exclusive jurisdiction and venue for any action to enforce this Agreement are properly in the applicable federal or state court for Georgia.

10. This Agreement is the entire agreement between the parties hereunder and may not be modified or amended except by a written instrument signed by both parties. Each party has read this Agreement, understands it and agrees to be bound by its terms and conditions. There are no understandings or representations with respect to the subject matter hereof, express or implied, that are not stated herein. This Agreement may be executed in counterparts, and signatures exchanged by facsimile or other electronic means are effective for all purposes hereunder to the same extent as original signatures.

IN WITNESS WHEREOF, the parties' authorized representatives have signed this Agreement:

**BELLSOUTH:** \_\_\_\_\_ **DISCLOSER:** \_\_\_\_\_

**By:** \_\_\_\_\_ **By:** \_\_\_\_\_  
(Authorized Signature) (Authorized Signature)

**Name:** \_\_\_\_\_ **Name:** \_\_\_\_\_  
(Print or Type) (Print or Type)

**Title:** \_\_\_\_\_ **Title:** \_\_\_\_\_